

SERVICE DATE – LATE RELEASE SEPTEMBER 1, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42090

WTL RAIL CORPORATION—PETITION FOR DECLARATORY RELIEF

STB Ex Parte No. 230 (Sub-No. 8)<sup>1</sup>

IMPROVEMENT OF TOFC/COFC REGULATIONS—  
WTL RAIL CORPORATION PETITION FOR PARTIAL  
REVOCATION OF EXEMPTION

Decided: September 1, 2005

On December 14, 2004, WTL Rail Corporation (WTL) filed a petition under 5 U.S.C. 554(e) and 49 U.S.C. 721 seeking a declaratory ruling from the Board that: (1) certain practices of CSX Transportation, Inc. (CSXT) constitute an unreasonable practice in violation of 49 U.S.C. 10702 and 10704(a)(1); and (2) CSXT's refusal to use WTL's trailers as part of its 48-foot trailer fleet jeopardizes CSXT's ability to fulfill its car service obligations under 49 U.S.C. 11121-22. WTL seeks a cease and desist order. WTL also asks that the Board compel CSXT to use WTL's trailers and set a "default" rate for trailer compensation in the event the parties are unable to reach terms through negotiation. WTL concurrently filed a petition under 49 U.S.C. 10502(d) and 49 CFR 1121.1, *et seq.* for partial revocation of the class exemption adopted in Improvement of TOFC/COFC Regulation, 364 I.C.C. 731 (1981).

By decision served on February 8, 2005, CSXT and CSX Intermodal (CSXI) were granted an extension under February 15, 2005, to respond to WTL's petitions. Decisions served February 15, March 17, April 15, May 18, June 24, and August 4, 2005, granted requests by the parties to hold the proceedings in abeyance to give them additional time to conduct settlement discussions. The most recent decision held the proceedings in abeyance until September 1, 2005, and directed the parties to report back to the Board on August 31, 2005, as to the status of those discussions and as to when CSXT and CSXI replies, if any, should be due.

In a letter e-filed on August 26, 2005, CSXT and CSXI report that they have exchanged several settlement proposals with WTL since their last report to the Board. CSXT and CSXI state that the differences between the parties have been reduced and several issues have been resolved; however, on the remaining issues, the parties believe that further discussion will result in agreement and settlement. The parties also believe that further discussions, instead of

---

<sup>1</sup> The proceedings are not consolidated. A single decision is being issued for administrative convenience.

proceeding with litigation, will result in a final settlement. CSXT and CSXI request that the Board continue to hold these proceedings in abeyance for another month, until October 3, 2005, to give the parties additional time to conduct settlement discussions. Counsel for CSXT and CSXI states that WTL has agreed to the extension request.

The request to continue to hold these proceedings in abeyance is reasonable and will be granted. The parties are directed to report back to the Board on September 30, 2005, as to the status of those discussions and as to when CSXT and CSXI replies, if any, should be due.

It is ordered:

1. These proceedings will be held in abeyance until October 3, 2005.
2. This decision is effective on the date served.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary